

NBC BOARD OF COMMISSIONERS

11/17/04

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**1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
NARRAGANSETT BAY COMMISSION**

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IN RE: :

MONTHLY BOARD MEETING :

DATE: NOVEMBER 17, 2004 TIME: 11:00 A.M.

PLACE: ONE SERVICE ROAD PROVIDENCE, RI

BOARD MEMBERS PRESENT:

VINCENT J. MESOLELLA, CHAIRMAN PAUL PINAULT, SECRETARY

ROBERT P. ANDRADE, TREASURER MICHAEL A. SALVADORE

BRUCE D. CAMPBELL

AL MONTANARI

RE P . JOHN J. McCAULEY, JR. REP. PETER GINAITT

SEN. MICHAEL McCAFFREY SEN. DANIEL DaPONTE

JOHN MacQUEEN

JOHN GIUSTI

TOM PERKINS

**DR. ISADORE RAMOS R. DAVID CRUISE MICHAEL DiCHIRO JOSEPH
KIMBALL**

DR. RICHARD H. BURROUGHS THOMAS LAZIEH

JOSEPH D' ANGELIS, ESQUIRE

RHODE ISLAND COURT REPORTING 25 SEA VIEW AVENUE

EAST PROVIDENCE, RHODE ISLAND (401) 437-3366

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(Meeting opened at 11:00 A.M.)

MR. CHAIRMAN: Recognizing a quorum, we will call the meeting of Wednesday November 17, 2004, to order at 11:00 A.M. First order of business is the approval of the previous minutes of October 20, 2004. We have a motion by Commissioner MacQueen and seconded by Commissioner Lazieh and Commissioner Cruise. Discussion on the previous minutes? Is there any discussion on the previous minutes? Hearing none. All of those that are in favor say aaye.-

Are there any opposed? There are none opposed, and the motion carries.

Next order of business is old business. Do

we have any old business to come before the members today? Any old business? Hearing none, we'll move along to the next order of business which is the presentation of the Employee of the Year Award, who was unable to be with us last month. Commissioner Salvadore, will you proceed.

MR. SALVADORE: Our Employee of the Year is Paul Desrosiers who is the Assistant Operations Manager of the Field's Point installation.

Paul Desrosiers is one of the most

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valuable employees in the NBC, and his attention to detail and his ability to communicate information is critical to the success of Operations at Field's Point.

He comes to work early to meet with the outgoing 11 to 7 shift and stays late to check in with the incoming 3 to 11 shift. This type of commitment eliminates many potential miscommunications. Paul's easy and thoughtful manner and finesse as an educator lends him equally at home with a group of dignitaries as with a group of fourth graders, and his enthusiasm for the important work that the Narragansett Bay Commission does is unmistakable regardless of to whom he is talking.

His work ethic is unparalleled at Field's Point, and his dedication to the Narragansett Bay Commission in his profession is unquestionable. As a matter of fact, Paul had to miss the awards ceremony last month because he was taking a continuing

education class for the NBC. He was

at Smoke School. I don't know what they do at Smoke School. Paul, maybe you and I need to have lunch.

4

It is with great pleasure that I name Paul Desrosiers Employee of the Year.

MR. CHAIRMAN: Paul, congratulations.

MR. DESROSIERS: Thank you very much.

MR. SALVADORE: Hey, Paul, what about smoke school?

MR. DESROSIERS: It sounds more attractive than Visual Emissions Certification. I get to read smoke.

MR. CHAIRMAN: Before we move on to the next order of business, I'd just like to

say that there are many ways to judge a quality

of an employee. One of those standards is the respect that one enjoys among his fellow workers, and I can tell you that among his fellow workers that Paul enjoys such a high degree of admiration and respect that - have no other choice but to name him today the Employee of the Year; and for that, you know, we congratulate him. So, again, thank you, Paul.

Moving right along. Do you have a report for us today, Mr. Secretary?

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1 MR. PINAULT: I have a report for 1 Under construction, the tunnel
construction

2 the month of October. Basically, both plants are 2 is moving
along well. The Chairman and I spent

3 running well. Usually in the September, October 3 three hours
underground last Monday and we

4 time frame, when the weather cools off, we do 4 witnessed - they
are about 5700 feet out of the

5 have some operational upsets, but this year they 5 16,000 feet
have been bored and lined at least

6 were fairly minimal. 6 with the first-pack liner, and they're up on

7 At Bucklin Point, the new plant went on line 7 Allen's Avenue. If

you know where the Channel 10

8 - the first phase - on September 28, and it's 8 Weather Board is with the temperature and wind,

9 worked extremely well. We always met permit; but 9 they're up about that point, and they started

10 with the new plant on line, with only four weeks 10 here, so they're about 5700 feet out of the

11 under our belt - the permit limit is 30 11 16,000 feet.

12 milligrams per liter - not to exceed 30 12 The Foundry Shaft on the SNM came down to

13 milligrams per liter BOD and T55, and it was 9. 13 the invert that they want to be at. They are

14 Generally we're in the teens. We have been - 14 still behind schedule, but we're hoping to make

15 had about a 56 to 58 percent additional reduction 15 some of that up, so we're moving along.

16 in pollutants. 16 On the other projects that are summarized,

17 I think once the staff fine tunes the plant 17 overall they are proceeding on schedule with the

18 some more it will be even better. So our hats 18 exception of the Woonasquatucket River

19 off to everyone involved in that project. 19 Interceptor Project. It is behind schedule, but

20 Treatment levels are summarized in the middle of 20 we owed them a time extension because of the --

21 Page 2. 21 we modified the work in Promenade Street to

22 As far as Interceptor Maintenance, the 22 minimize impact on
the traffic for the mall,
23 emergency re-lining of the cracked pipe on 23 especially during
the holiday season. So we have
24 Cemetery Street near the Bonanza Bus has been 24 to give them
some more time. Also there was some
6 8
1 completed. The cleaning and inspection of the 1 minor cracks
that developed in the Higher
2 Abbot Run Interceptor up in Cumberland. We did 2 Education
Building that developed adjacent to the
3 find a rotten piece of log in the pipe. No one 3 excavation. They
were working to stabilize and
4 knows how it got in there. We're trying to 4 correct that - working
with the Foundry.
5 figure out a way to get it out. Other than that, 5 Bucklin Point
Improvements, I mentioned we
6 the pipe is good. We did have some minor 6 started up at the end
of the summer. It's going
7 problems on Louisquisset Pike in Lincoln. 7 extremely well. It's
86 percent complete for the
8 Because the pipe is shallow, when they were 8 whole job and six
months ahead of schedule. The
9 flushing the line, there was some minor backups 9 contract
amount is less than what it was when we
10 into a couple of homes which we are taking care 10 awarded the

contract two and a half years ago.

11 of. 11 The Biosolids Project under resource

12 Under Financials, bottom of Page 3, we have 12 recovery is
proceeding well. They are on

13 about 69 million invested at the end of October. 13 schedule to
take over removing sludge from the

14 With 33 percent of the fiscal year past, we are 14 Bucklin Point
Facility January 1 and December 1

15 spending at a rate of 28.3 percent, so we are 15 of next year for
Field's Point.

16 under spending. 16 The nitrogen removal and other
improvements,

17 On Page 4 is a summary of Pool Loan 7. Out 17 the Pilot Study
that we did at Field's Point. We

18 of 40 million, we have 1.7 million left; and as 18 started it last
March. We extended it two

19 Karen mentioned, we are spending 8 to \$9 million 19 months,
and it's being wrapped up now. We have a

20 a month, and we will be borrowing another 40 20 lot of good
data. Hopefully, we can use that to

21 million from the State Revolving Fund prior to 21 come up with
an alternative that will remove

22 the end of the year, and we still have money left 22 nitrogen and
save us a lot of money.

23 in the Variable Rate Debt Obligation of 70 23 Moving along,
Pretreatment Page 10, we

24 million. Personnel summary's also on Page 4. 24 initiated the program with the Dentists and

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1 Dental Association working to remove mercury from 1 the Chairman chaired the meeting of the Personnel

2 the system, and we are going to be cited by the 2 Committee. There were two matters up for action.

3 governor next week on the 23rd. We're getting a 3 They're on your

agenda. Action A. Review and

4 citation for our efforts at mercury reduction in 4 Approval of
Resolution 2004:33, Adoption of the

5 the state. 5 Narragansett Bay Commission Non•union

6 Page 11, the special Ad Hoc Storm Water 6 Defined•Benefit Plan.

The committee heard the

7 Committee, when they last met, they directed 7 matter. A motion
was made to make a

8 staff to draft legislation to look into creating 8 recommendation to
the full Board for passage.

9 a Storm Water Management District. That 9 For the benefit of the
entire Board, Karen

10 legislation has been drafted. It's going through 10 Giebink is
going to give us a brief recap of the

11 staff review now; and hopefully, by the December 11 high points
of the meeting; and we're going to

12 15th meeting, we will call a meeting of 12 need the screen for
that. So if we can just have

13 Commissioner Perkins' committee to review the 13 your attention
for five minutes?

14 draft, and then we'll take it from there if we 14 MS. GIEBINK: I'd
like to first of

15 want to pursue having it introduced. The fall 15 all say, "Good
morning," introduce Bob Chin from

16 lien sale - we have two a year - is scheduled 16 Abacus Benefit
Consultants, Inc. He assisted the

17 for December 2, and that's moving along well. 17 NBC in the
development of the plan along with Dan
18 The last couple of things under Public 18 Waugh from TLSPC.
19 Affairs, we began filming - we're going to be 19 Just by way of
background, the current
20 doing a CSO documentary film. Because many 20 non-union plan
was adopted in July 2002. Its
21 people want to get into the tunnel, but it's very 21 401(A) plan is a
profit-sharing plan. It's a
22 difficult to schedule to get people in there, we 22
defined-contribution plan, and that was to
23 felt that we would prepare a film which could be 23 replace the
SEPP plan, which was also a
24 used for educational purposes, and maybe we could 24
defined-contribution plan that was in place
10 12
1 run it on PBS and other places, and that is in 1 previously; and
basically, we had outgrown the
2 the process of being prepared. Last month he was 2 SEPP plan
and needed to adopt a more formal plan,
3 here taking some footage of the Board in action. 3 a profit-sharing
plan; and at that time, again,
4 Those are the highlights, Mr. Chairman; and 4 we were aware of
the real inequity between the
5 if there's any questions, I'll be glad to answer 5 union plan, which
is a defined-benefit plan as

6 them. 6 opposed to the non-union plan, which is a
7 MR. CHAIRMAN: The members have 7 defined-contribution plan.
8 heard the Executive Director's report. Are there 8 In addition,
non-union employees may also
9 any questions or comments regarding the Executive 9 participate
in the 457 deferred compensation
10 Director's report? On the Executive Director's 10 plan, which is
employee funded that allows for
11 report, comments? Questions? Okay. Moving 11 pre-tax
employee contributions. The current
12 right along. 12 union plan allows the participation in the state
13 The next item is Committee Reports and 13 retirement system,
and they have a defined
14 Action Items Resulting. The first committee 14 benefit up to a
maximum of 80 percent income
15 reporting is the Finance Committee. Chairman 15 replacement.
The union employees also have
16 Andrade, do you have a report? 16 retiree health insurance, and
they can also
17 MR. ANDRADE: This committee has 17 participate in the 457
deferred compensation
18 no report this morning. 18 plan, and that's pre-taxed for the
employee
19 MR. CHAIRMAN: Thank you. CEO 19 contributions. So there's a
significant
20 Committee, Commissioner Giusti. 20 difference in the two

retirement benefits.

21 MR. GIUSTI: No report, Mr. 21 In May 2004, the Chairman asked
the

22 Chairman. 22 Executive Director to explore retirement plan

23 MR. CHAIRMAN: Personnel 23 options for NBC's non-union
employees. Again, it

24 Committee, in the absence of Commissioner Kijak, 24 was
motivated by the inequity of retirement

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1 benefits for the union and non-union employees. 1
defined-contribution component; so that, again,
2 There also was a concern about the non-union 2 we're sharing
the risk between the employer and
3 retirement income adequacy, and he also wanted to 3 the
employee. An employee would be entitled to
4 acknowledge the significant contribution of the 4 social security
benefits and any other savings
5 non-union employees to NBC's successful operation 5 they've set
aside over the years.
6 over the years. 6 So we're looking to establish a new
7 Just by way of background, the NBC is 7 defined-benefit plan.
Again, maximum 30 percent
8 considered a governmental employer, and as such, 8 income
replacement if the employee performs
9 we are sort of a square peg in a round hole. We 9 service for 30
years. We are also looking at an
10 don't fit in any of the traditional retirement 10 early retirement
option, which I will explain
11 plans, so that makes things a little more 11 later. Benefits would
accrue at 1.0 percent per
12 interesting. For example: We do not qualify for 12 year. There is
credit for past and future
13 a 401K, which probably many of you are familiar 13 service.
There is cliff vesting after seven

14 with. 14 years. Normal retirement age is 65 plus you need
15 There are two basic plan types. They are 15 to be in the plan for
five years. Participation
16 Defined-Contribution Plans and Defined-Benefit 16 in the plan is
voluntary.
17 Plans. Just to highlight some of the 17 The way the plan would
be funded - we are
18 differences, under a defined-benefit plan, the 18 looking at an
employer contribution of 5 percent
19 employee is guaranteed a fixed benefit upon 19 in fiscal '04.
Obviously, the future
20 retirement. In a defined-contribution plan, 20 contributions to
the plan may change based upon
21 there is no fixed benefit. The employee will 21 the performance
of investments as well as plan
22 have upon retirement whatever he put into the 22 demographics.
We are also looking to fund it
23 plan plus any investment earnings. Under a 23 through a pre-tax
contribution from employees of
24 defined-benefit plan, there is no fixed employer 24 5 percent. So
we're looking to share the funding

14 16

1 contribution, but there is a mandatory employer 1 of the plan, and
the plan would be funded on a
2 contribution. In a defined-contribution plan, 2 bi-weekly basis as
we process payroll.

3 there is no fixed employer contribution, usually 3 Overall, the
plan would be funded as
4 it's set at the beginning of the plan year, and 4 follows: Under the
current plan, profit-sharing,
5 it's not mandatory. Under a defined-benefit 5 the NBC has
historically put in 10 percent in the
6 plan, the bearer of the investment risk is the 6 non-union
defined-contribution plan, so that's
7 employer; and under the defined-contribution 7 the ER there, 10
percent. Under the proposed
8 plan, the bearer of the risk is really the 8 plan, we're looking at
reducing NBC's
9 employee. 9 contribution to the profit-sharing plan to
10 So when we looked at the plan development, 10 5 percent, and
funding the defined-benefit plan
11 there were a number of objectives. We wanted to 11 with 5
percent employee pre-tax and an employer
12 provide a basic retirement income. We wanted to 12 5 percent
contribution, so a total 10 percent
13 share the risk between the employee and the 13 contribution
from NBC for both plans. Again, the
14 employer. We wanted to work to not increase 14 NBC has
historically funded the non-union plan at
15 NBC's overall contributions, and we also wanted 15 10 percent.
The state plan - it's interesting
16 to address the inequity issues between the union 16 to note -

next year they're looking at a

17 and non-union retirement plans. 17 contribution of 16.9 percent.

18 So what we came up with is a hybrid plan 18 In this plan is an unfunded liability for

19 that's designed to achieve 80 percent income 19 past service credit because we do want to give

20 replacement through a combination of sources. 20 employees credit for past service. I'd like Bob

21 We're looking to add a defined-benefit plan that 21 to explain this to you.

22 will provide for a maximum of 30 percent income 22 MR. CHIN: Good morning,

23 replacement. The state plan is 80 percent. We 23 everybody. The unfunded liability is, basically,

24 also were interested in maintaining the 24 this is the difference between the actual initial

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1 deposit of the assets and the actual accrued 1 MS. GIEBINK: The way the plan

2 benefits. Because this is a defined-benefit 2 document is written right now, the employee

3 plan, we are rewarding people based on service. 3 contribution is fixed at 5 percent. I think that

4 It was important that the employees get rewarded 4 was one of the things we looked at, you know, the

5 for service, so that creates this what we call 5 sharing of the risk between employee and

6 this liability, this accrued benefit. So the 6 employer. Any other questions?

7 definition here of unfunded liability is the 7 MR. ANDRADE: At what point will

8 difference between assets at the end of the year 8 that 2.9 million of unfunded be reconciled -

9 and your promised benefits in the initial year. 9 will they meet?

10 MR. KIMBALL: How much is that 10 MR. CHIN: In the first year,
11 liability? 11 you'll have the largest increase in liabilities

12 MR. CHIN: It's 2.9 so - so in 12 because we are crediting past
back service. As

13 the actual costs and in the estimates, the actual 13 time goes on,
the accrued benefits won't grow as

14 accrued benefit is - it's 2.9 million funded. 14 quickly because
the future service accrued in the

15 The initial funding, on a minimum basis, is 15 current year and
contributions will remain

16 \$694,000. We develop a cost method that as a 16 basically the
same. So if you had to estimate -

17 minimum and a maximum. So the minimum is 17 probably if you
had to estimate - maybe four or

18 \$694,000 and the maximum is \$2.9 million. 18 five years
equalize, and that's based upon the

19 MR. KIMBALL: Do you have an idea 19 fund earning 6 percent. If
the fund does better

20 what the annual cost will be to - for the 20 than that, it will be
sooner.

21 5 percent contribution? 21 MR. ANDRADE: Not too long a

22 MS. GIEBINK: Right now, based 22 period.

23 upon the current census information, we are 23 MR. CHIN: No,
it's not.

24 looking at an annual total contribution of 24 MS. GIEBINK: Any

other questions?

18 20

1 \$700,000 from the employer to both plans. I'm 1 So the projected annual contribution includes the

2 sure you're aware that depending upon 2 amount of the unfunded liability, that's within

3 demographics and investments, you know, that 3 the budget. The - some plan revisions have been

4 could go up or down. We're looking to design a 4 made since the documents were mailed out to the

5 plan such that is conservative and to mitigate 5 Board. I believe you all have received a memo.

6 that as much as possible. The present value of 6 I'll just highlight the changes.

7 accrued benefits is 2.9 million. The first year 7 The first change has to do with early

8 plan funding is approximately 700,000. So this 8 retirement options. We have eliminated two early

9 is what we're looking at. 9 retirement options. The plan was originally

10 MR. KIMBALL: Karen, how's that 10 designed with an early retirement option of

11 compared to the 10 percent employer contribution 11 55 years of age and 20 years of service for

12 to the profit-sharing plan? 12 reduced benefit. That's been deleted as well as

13 MS. GIEBINK: We looked at the 13 a 60 years of age and 25
years of service. The
14 budget, and we wanted to make sure we could live 14 plan still
contains one early retirement option
15 within the budget, so we're amortizing the 15 of 62 years of age
and 20 years of service. We
16 unfunded liability over a 33-year period, or 16 are still in the
process of evaluating that from
17 rolling that in, plus any new accrued benefits 17 an actuarial
standpoint. Should that prove to be
18 and is the total contribution to both plans this 18 manageable,
we will go forward and implement
19 year of \$700,000 which ties into the budget. 19 that if not, then
that one will be deleted.

20 MR. ANDRADE: When future 20 Also, Section 4.3 Mandatory
Contributions,
21 contributions are determined, if they have to be 21 language was
modified to ensure that the employee
22 adjusted up or down, do you still have a 22 contributions are
pre-taxed. Plan termination
23 50 percent employer and employee? Or is one of 23 language
was also modified, so that if employees
24 the 5 percent, the employee, fixed? 24 are committing to this
plan, and they put in

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**1 5 percent, and the plan is voluntarily terminated 1 Cost of living
adjustment, and this is one**

**2 by the NBC, the employees, at a minimum, would be 2 of the big
issues with the 5tate of Rhode Island**

**3 entitled to a return of their contributions plus 3 plan. The State of
Rhode Island plan includes a**

**4 10 percent. In addition, there are a few minor 4 3 percent
compounded COLA the third January after**

5 changes made in terms of capitalization and cross 5 retirement

and every January thereafter, and

6 references. They're all red-lined in your 6 that's creating a big liability for them. Our

7 copies. 7 plan does not have a COLA, and our plan does not

8 In terms of the plan rollout, we're looking 8 provide retiree health insurance coverage.

9 for the new DB plan being in effect on January 1, 9 So overall, to summarize, we're looking at a

10 2005. The defined-contribution will be reduced 10 hybrid plan that shares the risk between the

11 to 5 percent at the same time. We will start 11 employer and the employee; provides the employee

12 funding the plan on January 1, 2005. In the 12 with a base retirement income and a more

13 month of December, we need to educate and enroll 13 equitable retirement plan. It's not as good as

14 employees. Again, it's a voluntary plan, so we 14 the State retirement plan, but it is a step in

15 need to make sure that employees understand how 15 the right direction, and we've incorporated a

16 the plan works. We also need to secure the 16 number of design elements into the plan to make

17 services of a trustee, look at investments, and 17 it conservative and viable.

18 develop an investment platform, engage actuarial 18 MR.

MONTANARI: Are we looking at

19 services, and record keeping. So we've got a busy 19 working
with an advisor?

20 month ahead of us. 20 MS. GIEBINK: In terms of the
21 In terms of a comparison between the DB 21 actual plan
administration; but still, it comes
22 component for the non•union employees as opposed 22 back on
us. We do have a fiduciary
23 to the State of Rhode Island, the maximum benefit 23
responsibility that we take seriously.

24 under this proposal is 30 percent. The State of 24 MR.
CHAIRMAN: Can you hear? Can

22 24

1 Rhode Island is 80 percent. The employee 1 you hear?
2 contribution for the NBC plan is 5 percent 2 THE REPORTER: I'm
having a hard
3 pre-taxed. The State of Rhode Island 3 time hearing Ms. Giebink.
She's keeping her back
4 contribution is 8.75 percent. The current 4 to me, and it's making
it very difficult to hear.

5 employer contribution, we're looking at 5 percent 5 MR.
CHAIRMAN: All right. So if I

6 for the DB plan. To the State of Rhode Island 6 could just ask the
Commissioners if they have any
7 plan, we are contributing 10.51 percent, and 7 questions? Try to
use the closest mike so the

8 thars increasing to 16.96 percent next year. 8 stenographer can

pick up your comments and can

9 The formula is laid out here below. Ours is 9 hear you. Can you hear me? Can you hear me now?

10 very simple, 1.0 percent per year. State of 10 All right.

11 Rhode Island has an increasing accrued benefit. 11 Before I add my own comments, are there any

12 Vesting schedule is a 7-year cliff vesting for 12 questions of Karen or Mr. Chin regarding the

13 the NBC. Ten-year cliff vesting for the State. 13 defined-benefit plan? Are there any questions

14 Our retirement age is - under the NBC Plan 14 regarding the presentation that you just heard?

15 - is 65 with five years of service. You need to 15 Okay.

16 be in the plan for five years. State of Rhode 16 So I would just like to put my own comments

17 Island Defined-Benefits plan is 28 years of 17 on record, and that is, of course, that I would

18 service, so you can retire at any age, and also 18 urge you to support this resolution. As the

19 age 60 with ten years. As I mentioned, we are 19 Board knows, we have been looking at this issue

20 exploring the early retirement option of age 62 20 for a number of months now - it's almost a year,

21 with 20 years, and that will be implemented if it 21 and I think I heard Karen make a reference to the

22 is viable. It will be deleted if it is not. The 22 fact that we have

been - that she found some

23 State of Rhode Island, again, you can retire with 23 records of discussions that dated back to the

24 28 years of service regardless of age. 24 '80s with regard to implementing a plan which

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1 provided more parity for non-union employees as 1 that, and because some of the election lawyers

2 opposed to the union employees. 2 have looked at the passage,
and they truly

3 And, more recently, we adopted the new plan; 3 believe that
passage of SEPARATION OF POWERS is

4 and as a result of looking - after abandoning 4 effective upon
passage that evening and not as of

5 the SEPP Plan because we outgrew it, the 5 January 1; and out of
an abundance of caution,

6 inequities of the two plans were so apparent and 6 and while I'm
certainly remiss to do so and love

7 stark that I felt compelled to try to address the 7 serving on this
commission, I will be abstaining

8 issue. That's why I asked the Executive Director 8 on all of the
votes today while some of our

9 to start to examine ways we could bring our 9 election lawyers are
looking further to make sure

10 non-union employees parity with our union 10 that it is, in fact, in
place today or - and not

11 employees in terms of pension benefits. 11 January 1.

12 And today, while there still exists a number 12 MR CHAIRMAN:
Thank you very much.

13 of inequities between the two, I think we make a 13
Commissioner McCaffrey requests to abstain, and

14 great stride today in moving our non-union 14 Commissioner
DaPonte requests to abstain.

15 employees closer to parity with our union 15 MR. McCAULEY:

They can take me

16 employees; and it becomes a very basic question 16 away in shackles. I'm voting.

17 of fairness, and we also had an eye toward - and 17 MR. CHAIRMAN: Representative

18 I have to commend Karen and Paul and Ray and 18 McCauley is voting in the affirmative. We have a

19 others for looking at the cost implications of 19 motion. We have a second. All in favor - I

20 implementing this plan and keeping it within the 20 believe the motion passed with an abstention from

21 realm of our present cost for a plan for 21 Commissioners Ginaitt, DaPonte, and McCaffrey.

22 non-union employees. So it's not only the 22 Commissioner McCauley votes in the affirmative.

23 fairness issue, it's the inequities and the 23 The motion carries. Are there any nnaysn? Is

24 parity issue; but if it was a cost issue, and all 24 there any opposed? There are none opposed, and

26 28

1 of these issues are addressed in this plan, then 1 the motion carries. Thank you very much.

2 I would urge the members of this Board to support 2 Item B Review and Approval of Resolution

3 this resolution. 3 2004:34, an Amendment of the Narragansett Bay

4 So having said that, are there any other 4 Commission Non-union

Retirement Plan the

5 comments or questions regarding Resolution 5
Defined-contribution. Suffice to say, the

6 2004:33? Hearing none, Commissioner Salvadore. 6 Personnel
Committee did meet on this issue as

7 MR. SALVADORE: Move to approve. 7 well. The issues contained
in Resolution 2004:34

8 MR. CHAIRMAN: Seconded by 8 are very basically housekeeping
issues of no

9 Commissioner Macqueen and by Commissioner 9 substance
whatsoever, and I would ask your

10 Andrade, Commissioner Giusti, and Commissioner 10 favorable
position on this as well. Having said

11 Lazieh. Further discussion on Resolution 11 that, Commissioner
Salvadore.

12 2004:33? Further discussion? Hearing none. All 12 MR.
SALVADORE: Motion to approve.

13 of those that are in favor will say naye• n Are 13 MR. CHAIRMAN:
We have a motion to

14 there any opposed? There are none opposed, and 14 approve. I
have a second by Commissioner

15 the- 15 Macqueen, Commissioner Andrade, Commissioner

16 MR. GINAIn: Abstain, Mr. 16 Lazieh, Commissioner Giusti. All in
favor will

17 Chairman. 17 say naye• n Are there any opposed? There are

18 MR. CHAIRMAN: We have an 18 none opposed, and the motion

carries. Record

19 abstention from Commissioner Ginaitt with 19 abstentions from
Commissioners Ginaitt,

20 explanation. 20 McCaffrey, and DaPonte. Record Representative

21 MR. GINAIn: Yes, Mr. Chairman. 21 McCauley as voting in the
affirmative. That

22 As we all know, we have just gone through the 22 concludes the
business under the Personnel

23 elections, and we have several concerns over the 23 Committee.

The next committee reporting is the

24 passage of SEPARATION OF POWERS. Because of 24
Legislative Committee, Commissioner McCauley.

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1 MR. McCAULEY: Just a few rumors, 1 a second. All those that are in favor will say

2 Mr. Chairman, no report. 2 Raye• R Are there any opposed? There are none

3 MR. CHAIRMAN: Okay. No report. 3 opposed, and the motion carries.

4 Rules and Regulations Committee. I chaired that. 4 MR. GINAITT: Same request.

5 We had a couple of matters which have been before 5 MR. CHAIRMAN: Same request. Same

6 the Commission, ongoing matters before the 6 cast of characters.

7 Commission for several months. These involve the 7 (Commissioners Ginaitt, DaPonte, and McCaffrey

8 revisions to our rules and regulations. One of 8 request to abstain from the vote.

9 the matters that we had dealt with today was a 9 Commissioner McCauley voted in the affirmative.)

10 revision on NBC purchasing regulations, and we 10

11 had Jill Colby - made a brief presentation. 11 MR. CHAIRMAN:

Item B: Review and

12 Jill, you just want to hit the highlights for us. 12 Approval of
Resolution 2004:36, Revised Rules and
13 MS. COLBY: Basically, I came 13 Regulations for use of
Wastewater Facilities
14 before the Rules and Regulations Committee 14 within the NBC.
Annette - Laurie.
15 September 29, I believe it was, and then we 15 MS. HORRIDGE:
Annette was tied
16 scheduled a public hearing for November 4 at 5:30 16 up, so I'm
doing this one. Annette was
17 P.M. We placed an advertisement in 17 responsible for revision
of the rules and regs
18 The Providence Journal advising the public of our 18 for use of
wastewater facilities within the NBC
19 intent to promulgate proposed purchasing rules 19 District.
These are the rules and regs that deal
20 and regulations. In addition, the advertising 20 with our
pretreatment program in the industrial
21 invited the public to comment at said public 21 community. We
held the same hearing the same
22 hearing and advised the public of the 22 advertisement at the
same time as we did the
23 opportunities to submit their written comments 23 first rules and
regs.
24 regarding the proposed revised rules and 24 Annette came
before the Rules and Regs

1 regulations by November 8. 1 Committee on September 29 to
present the

2 At this time having received no other 2 revisions to the
wastewater regs at that time.

3 outside comments, questions, or revisions since I 3 Most of them
were re-organizational changes.

4 last met with the Rules and Regulations 4 There's nothing major
in them; and in fact, we've

5 Committee, I recommend that this Committee 5 received verbal
notification from the DEM about

6 approve the attached Resolution. It is 2004:35, 6 substantial
modifications would require

7 I believe. 7 additional hearings.

8 MR. CHAIRMAN: Yes. I think the 8 On October 5, an
advertisement was placed in

9 Board can note that at the public hearing - I 9 The Providence
Journal notifying the public of

10 think Jill can give testimony to the Committee - 10 this hearing
to be held on November 4 for the

11 there was no public attending - that there was 11 opportunity to
submit comments. No one attended

12 no public comment. So pretty benign I think. So 12 that hearing
from the public; and in fact, the

13 having heard that. 13 rules and regs were presented at that
hearing,

14 MR. LAZIEH: Mr. Chairman, I move 14 and we received no other
outside comments,
15 passage. 15 questions, or revisions since that time. So at
16 MR. CHAIRMAN: We have a motion by 16 this point, we would
ask you to approve
17 Commissioner Lazieh and seconded by Commissioner 17
Resolution 2004:36.
18 Montanari to approve Resolution 2004:35. 18 MR. GIUSTI: So
moved.
19 Discussion on the matter? Commissioner Campbell. 19 MR.
CHAIRMAN: We have a motion
20 MR. CAMPBELL: Does this contain 20 from Commissioner
Giusti to approve Resolution
21 any changes over the - from the draft? 21 2004:36. Seconded by
Commissioner Montanari and
22 MR. CHAIRMAN: No, there were no 22 Commissioner Lazieh.
Discussion on the matter?
23 changes in the draft. Commissioner Cruise, do 23 Discussion on
the matter?
24 you have a question? Okay. We have a motion and 24 MR.
PINAULT: Again, Laurie, there

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**1 were no changes from the draft? 1 hold its next meeting at his
plant, formerly**

**2 MS. HORRIDGE: No, there were no 2 Colfax, for a tour with
refreshments served. A**

3 changes. 3 number of members agreed to attend, and this is

**4 MR. CHAIRMAN: These revisions 4 open to the public; so any
who wish, may attend.**

**5 will be filed with the Secretary of State and 5 This concludes my
report. Thank you.**

**6 become effective in 20 days. Is that it? 6 MR. CHAIRMAN: Thank
you, Harold.**

7 MS. HORRIDGE: Yes. 7 Next committee reporting is the

Executive

**8 MR. CHAIRMAN: And they'll be 8 Committee. There's no report.
Chairman's**

9 filed today? 9 Report. The Chairman has no report except to

**10 MS. HORRIDGE: Actually, we have 10 announce the meeting
date for next month which is**

**11 to put them on•line now. There's a requirement 11 December the
15th and to remind our members that**

**12 to put them on the web, so probably by the 12 on that day we
usually have our holiday luncheon,**

**13 beginning of next week. 13 so bring your appetite. It's always
great. So**

**14 MR. CHAIRMAN: Okay. Great. All 14 beyond that, there is no
report.**

**15 those that are in favor will say "aye." Any 15 Next order of
business is new business. Is**

**16 opposed? None opposed, and the motion carries 16 there new
business to come before the Commission?**

**17 with abstentions from Commissioners McCaffrey, 17 Any new
business from any member? Commissioner**

18 Ginaitt and DaPonte. 18 Lazieh.

**19 MR. PERKINS: I also abstain. 19 MR. WIEH: Mr. Chairman, just
a**

**20 MR. CHAIRMAN: As well as 20 question from the - to the
Executive Director**

21 Commissioner Perkins. There is no other business 21 regarding

the bonding that - all the bonds that

22 before the Rules and Regulations Committee. 22 passed the bondings - those that passed, how

23 Moving right along, the Ad Hoc Storm Water Rate 23 will it affect the NBC?

24 Committee. Commissioner Perkins. 24 MR. PINAULT: As far as Question

34 36

1 MR. PERKINS: No report. 1 No.8, it was for \$70 million, which was for

2 MR. CHAIRMAN: You have no report, 2 Recreation Open Space and Water Quality

3 but you will be scheduling a meeting next month 3 Improvement. There was 70 million with 10.5

4 to review the draft legislation. The next 4 million to go to the Rhode Island Clean Water

5 committee reporting is the Citizen's Advisory 5 Authority to help bolster their state revolving

6 Committee. Harold, do you have a report for us 6 fund program, and there is also some set aside in

7 today? 7 the place for some grants for nutrient removal.

8 MR. GADON: Yes, I do. 8 So obviously that - by state law, we are

9 MR. CHAIRMAN: Proceed. 9 eligible for a minimum of 50 percent of all the

10 MR. GADON: The CAC meeting was 10 grants and loans because we have the two largest

11 held Wednesday October 10th with 15 attendees. 11 facilities; so
when the time comes, we will take

12 We welcomed back George Redman who had been out 12
advantage of that. The bond issue passed 3 to 1,

13 due to illness. 13 some 72 percent, so very high support, and we

14 We heard a report by Howard Schacter on the 14 will benefit
from that bond issue. The

15 CCRI Academy now in place and sponsored by MJSA. 15
ratepayers will benefit.

16 This does provide training for electro platers, 16 MR.
CHAIRMAN: Any other new

17 most of whom are governed by NBC. 17 business?

18 We discussed the permits concerning nitrogen 18 MR. GINAIn:
At the appropriate

19 in the waste stream now being considered by DEM, 19 moment,
Mr. Chairman, I'd just like to make some

20 which NBC will be required to meet. We did 20 comments.

21 request that Tom Uva, as well as someone from the 21 MR.
CHAIRMAN: Well, I think that

22 DEM, explain the effect this will have on NBC and 22 time is
arriving because we are now on to other

23 its customers at a future meeting. 23 business. Is there any
other business to come

24 Tony Ferri, a member, did invite the CAC to 24 before the
Commission?

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**1 MR. SALVADORE: I have a question, 1 Paul- excuse me, my
phone wants me - and most**

2 Mr. Chairman. 2 especially yourself, Mr. Chairman, you lead this

**3 MR. CHAIRMAN: Proceed. 3 body in an exemplary fashion. It has
absolutely**

**4 MR. SALVADORE: With the passage 4 been a wonderful
experience. Thank you very**

5 of Question 1, it's probably a premature 5 much.

6 question, but is there any consideration being 6 MR. CHAIRMAN:
Thank you very

7 given as to how this Commission will be managed 7 much.

8 after all of these legislators are absented from 8 MR. PI NAULT:
On behalf of the

9 this Commission? I mean, that is really going to 9 staff, thank
you.

10 put a damper to this Commission, especially as a 10 MR.
CHAIRMAN: Other business or

11 legislative function. 11 other members? Well, then, since the
matter is

12 From my point of view, with the legislators 12 on the table, and I
don't know what the other

13 being absent, we are going to have to hire 13 legislators intend
to do about the December 15th

14 someone or go through some way of educating the 14 meeting,
certainly we hope they will attend.

15 balance of the legislature as to where we're 15 First, having
heard that they are not going

16 going with our legislative agenda, and it's going 16 to be
returning, I certainly think I've been here

17 to be very very difficult, and I don't think it's 17 long enough to
call you "Peter," that it's been a

18 too early for us to be thinking about that. 18 pleasure to have
you on this Board. I certainly

19 MR. CHAIRMAN: I agree. I agree. 19 recognize that not only have
you been a member,

20 Depending on what Commissioner Ginaitt has to 20 but you've
participated in so many ways, and you

21 say, I'm going to have my own comments. Other 21 will be
sorely missed as will all the legislators

22 business? Still on other business. 22 who served on this
Commission.

23 Commissioner Ginaitt. 23 I believe like you do that - and as
you've

24 MR. GINAIn: Mr. Chairman, and 24 expressed Commissioner
Salvadore - there is

38 40

1 certainly I'd like to allude to Question 1 that 1 going to be a
gaping hole in the progress this

2 was passed by a wide margin in Rhode Island, 2 Commission is
going to make in the years to come

3 regardless of my personal feelings on Question 1. 3 not having
the legislators' support and having

4 I'm not sure whether I'll be here on 4 them participate in literally
every sense of the

5 December IS because it looks as though I'm 5 word in the
operations and success of this

6 actually going to be out of town for three days, 6 Commission. It's
been a lifeline to the Rhode

7 so I may not be returning, and I think it's very 7 Island

government; and it's one - an issue that

8 important to go on the record to state that I 8 I believe that must
be dealt with, and I don't

9 have never been so proud to serve on a body, a 9 know exactly
how we're going to do that, but to

10 professional body, that displays itself in every 10 tell you that
you're going to be sorely missed,

11 single day of the month second to none in state 11 is truly an
understatement.

12 government like the Narragansett Bay Commission. 12 I've been
a vocal opponent of Question 1

13 It has been an absolute - it's I can't even tell 13 because I
recognize on a daily basis how

14 you how proud it's been to serve on this Board, 14 important
legislative input is to this Commission

15 and how disheartening it is to have to step away 15 and to all
commissions. It seems to me that

16 from this Board. 16 there's not going to be better government;

17 And I do feel that in a few years down the 17 there's going to be
a different government; and

18 line, you will be seeing the ramifications of 18 for those reasons,
we'll have to make the

19 taking a citizen legislature and removing it from 19 adjustments,
and life goes on, and we'll make

20 the working - the working of Rhode Island. We 20 those
adjustments, but you all will be so sorely

21 will see it. We will see the dynamics that will 21 missed, and it's
regretful. So having said that,
22 unfold after that, and it will certainly be a sad 22 other than the -
Commissioner Campbell.
23 day when I don't have to return here, so I do 23 MR.
CAMPBELL: While we're on the
24 thank you for everything you've done in the past, 24 subject, I
have been curious about how the

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1 appointments will be handled in the future. 1 stands presently the governor has full

2 Currently there are ten governor appointments and 2 appointment powers over this Commission?

3 then the municipalities appoint the rest of the 3 MR. D'ANGELIS:
You know I heard

4 people. Now, I have gotten two different 4 the comments of the representative and I'm not

5 answers. 5 familiar with the opinion of some constitutional

6 The legislation, as you read it, says that 6 experts that the act - the constitutional

7 the governor appoints everybody, and I guess one 7 amendment takes effect immediately. You know I

8 representative who should know maintains that the 8 read the proposal, and it said the effective date

9 governor appoints everybody. And that the 9 says January 1. It's clear; it's plain; it's

10 town/city appointments won't happen anymore. And 10 concise. I certainly would argue on the side of

11 I'm curious about the opinion of the 11 the effective date being what is stated

12 interpretation of the other legislators here. 12 n January 1, n which is still not enough time,

13 Whether the governor is going to appoint 13 obviously, for the legislature to get back into

14 everybody, or whether the cities and towns will 14 session and
address all the Boards.

15 still have their appointments? 15 MR. LAZIEH: But if it is

16 MR. D'ANGELIS: If I may, 16 effective January 1, in the
interpretation of the

17 Mr. Chairman? That is an issue that we took a 17 language that is
presently there, does the

18 look at some months ago and I'm familiar with the 18 governor
have full appointment powers excluding

19 language that you're referring to that gives a 19 all municipalities
of appointment power?

20 broad swath of appointing authority to the 20 MR. D'ANGELIS:
Until the

21 governor, and I know that I kind of intuit this 21 legislature acts, I
think a very good argument

22 that if the people out in Burrillville or the 22 could be made that
the governor has that

23 people in Foster or the people in these little 23 authority, and I'm
not sure whose appointments

24 hamlets knew what was ceded to the governor, I'm 24 come up
between January 1 and the end of the

42 44

1 not so certain how they would have voted on 1 session when an
act could pass, but those

2 Question 1. 2 appointments could all be open to question.

3 It is my view that if the legislature does 3 MR. LAZIEH: Now, in

municipality

4 nothing in this upcoming session, that an 4 appointments, some municipalities have made

5 argument certainly can be made that the governor 5 appointments with expiration dates possibly one,

6 usurps all those appointments. I know that the 6 two, three years down the line. Do those

7 House and Senate tried to get together last 7 expiration dates still take effect? Or are they

8 session, and I'm sure they're going to work on it 8 null as of January 1, 2005?

9 with the passage of Question 1 with added zeal in 9 MR. D'ANGELIS: I would argue

10 the upcoming session, and I would expect that a 10 they're good until the legislature changes the

11 legislative compromise will be achieved, and not 11 first section of the Narragansett Bay Commission

12 only applied to this agency, but all the agencies 12 and addresses all the appointing authorities; and

13 in state government that are affected. 13 that particular legislation, I'm sure, will have

14 I'd just like to remind you that that act, 14 provisions in it for all the existing

15 if it should pass and become law and be signed by 15 appointments because it has to address all those

16 the governor, would take precedence over the 16 issues.

17 governor's. So it's your point, but I'm 17 MR. LAZIEH: Thank you.
18 certainly not a congressman, so that's one man's 18 MR.
CHAIRMAN: I just want to say
19 view. 19 it's certainly an interesting issue and,
20 MR. LAZIEH: Mr. Chairman, if I 20 Commissioner Campbell, you
got two answers. You
21 could address a question to the legal counsel? 21 got lucky
when you got two. Probably seven
22 In the opinion of legal counsel the wording of 22 floating around.
But needless to say, I guess
23 the act - that is the bonding or the act that 23 it's still an open
issue. I'm just asking our
24 has just passed - is it your opinion that if it 24 in-house
legislative expert, Joann Maceroni,

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1 2 3 4 5 6 7 8 9

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

about the language. There was something that provided that unless otherwise specified by law, that the governor had all the appointments, but that passed the Senate. It did not pass the House.

MR. PINAULT: The Senate bill did not say that. What it said was if the referendum passed, the Board would be reduced in our case from 23 to 19. Four legislators would be removed. The other nine aa ten would remain with the governor, and the other nine would remain with the cities and towns, and the quorum would change from 12 to 10. That

passed the Senate.

It never made it through the House.

MR. CRUISE: Did the bill aa just

to clarify •• the Senate passed a bill that dealt with all boards and commissions. We took the position to assume because it was a legislative appointee, doesn't necessarily mean it becomes a gubernatorial appointee. Our position was the executive branch includes all the general officers, so we passed legislation that reconstituted all boards and commissions. That bill is still alive. It's sitting in the House.

46

1 2 3 4 5 6 7 8 9

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

CERTIFICATE

I, Shayla N. Fagnoli, Notary Public, do hereby certify that I reported in shorthand the foregoing proceedings, and that the foregoing transcript contains a true, accurate, and complete record of the proceedings at the above-entitled hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of November, 2004.

Q, 0-.. 0V

**SHA N. FARGNOLI, NO Y PUBLIC/COURT REPORTER
MY COMMISSION EXPIRES AUGUST 6, 2005.**

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1 MR. CHAIRMAN: Still alive until

2 January 2?

3 MR. CRUISE: Till January 4.

4 MR. CHAIRMAN: I know you're clear

5 on this, Commissioner Campbell. I know your

6 question has been answered. All right. Other

7 business? Other business? Other members.

8 MR. MONTANARI: The only question

9 is: If we get notified by Jean Marie to these

10 meetings, how do we aa

11 MR. CHAIRMAN: Well, we know

12 you're here on December the 15th. Okay. Other

13 business? Hearing none. Commissioner Salvadore.

14 MR. SALVADORE: Move to adjourn.

15 MR. CHAIRMAN: We have a motion to

16 adjourn. Seconded by Commissioner Macqueen and

17 Commissioner Montanari. All those in favor say
18 -aye" Any opposed? There are none opposed, and
19 the motion carries. Thank you.
20 (Meeting adjourned at 11:55 A.M.)

21 22 23 24

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